

Just published.

By J. WILKIE, No. 71, St. Paul's Church-Yard,

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OBSERVATIONS
ON THE
FIFTH ARTICLE
OF THE
TREATY WITH AMERICA:
AND ON
The Necessity of appointing a JUDICIAL EN-
QUIRY into the MERITS and LOSSES
OF THE
AMERICAN LOYALISTS.

Printed by Order of their AGENTS.

chiefly, by Gallows.

TO WHICH IS ADDED,
An APPENDIX, stating some important FACTS
relative to the Conduct of CONGRESS, &c.

L O N D O N:

PRINTED FOR G. WILKIE, No. 71. ST. PAUL'S CHURCHYARD.
MDCCCLXXXIII.



OBSERVATIONS

ON THE

FIFTH ARTICLE

OF THE

TREATY WITH AMERICA, &c.

THERE are several descriptions of persons mentioned in the Treaty with America, who apprehend they have claims on Government, for losses sustained, during the war, by a confiscation of their estates.

I. "REAL British subjects *," meaning, as is conceived, all those who were not resident in the Colonies

* This expression seems to have been adopted by the American Commissioners, to point out those Americans who *formerly* were British subjects, and who, they contend, are not so *now*; having, by some act, lost their political relation to the British State. It is natural to conceive, that under this distinction they mean, that all persons who were resident in America at the time of the Declaration of Independence, have not been since that time real British subjects, although they were so before; as, by their residence within, and their receiving the protection of, the States, after they were established, they became *their* subjects, and *lost all* political connection with the Sovereignty of Great Britain. In this light the States have considered every person residing in America since their usurpation, and have

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accordingly

Colonies at the time, or since the declaration of Independence, and yet own property in them.

2. PERSONS who were resident within the British lines, and had not borne arms against the United States; and,

3. PERSONS who had borne arms against them.

PERSONS of the first and second descriptions, it is stipulated in the treaty, shall be recommended by the Congress to the several States for a restitution of their property; and therefore it may be supposed impossible to ascertain what is, or will be, due from Government to the Loyalists, claiming a compensation for their losses, until the result of those recommendations shall be known: but in order to judge of the weight of this supposition, it ought to be considered, how far the States, under the present circumstances of the property confiscated, can, upon any principle of policy or justice, in regard to themselves or their own subjects, restore it, should they be so disposed. It must be acknowledged,

accordingly exercised all the powers of sovereignty over them. Unless this be the meaning of the expression, it can have none; because it must be allowed, that before the Declaration of Independence, all the Americans were "real British subjects," and must be so yet, unless that act of the Congress, and the late ratification of it by the British Government, have dissolved their political Connection with it.

that

that where the State has retained the right and possession, it may, if it pleases, order restitution. But where the property has been *bona fide* sold and appropriated to the public use by virtue of its own authority, a restitution of the *identical* property is not *lawfully* within their power; nor can it be done without a manifest and unprecedented breach of the faith of Government with its own subjects. For the laws, under the sanction of which the property of the Loyalists has been sold, direct, that the sales shall be made under the *seal* of the *State*; and the property sold is guaranteed to the purchasers, *free from all claims and incumbrances whatever*. Under such circumstances, is not the conclusion incontestible, that it is both morally and politically impossible for the States to restore the *identical* property which they have sold? And if this argument be just, does it not follow that the Loyalists, whose property has been confiscated and sold, are deserving objects of the *immediate consideration and justice of the British Government*?

THE conduct of the States, in respect to the Loyalists, has been variant. In some, the property confiscated has been sold by the State under its great seal, and warranted to the purchasers; and the proceeds have been appropriated to the public use. In others, a part has been sold, and a part leased for a term of years, and the rents only
 actually

actually applied to the use of the State ; in others, a part has been sold, but the right, under the laws of confiscation, remains in the State, and the possession in the original proprietors ; and in others, a part has been sold, a part mortgaged, and a part remains in the possession of the relatives of the person attainted.

Now, if any restitution of the identical property should be made in consequence of the recommendations of the Congress, it can only be of the property *unsold* ; and should we suppose, what no reason will justify, that any State will be so benevolently disposed towards men, who have been uniformly its *enemies*, as to restore the *property unsold*, it must naturally be upon this condition, that the claimants *shall abjure their lawful sovereign, and take the oaths of allegiance to the States*. For it is not to be supposed, that independent States, when they are under no moral obligation, nor have any motive of interest or policy in view, will give to the subjects of another sovereignty, that property which has been adjudged, by their laws, to belong of right to themselves.

HAD a restitution of the property confiscated been made a previous condition of American independence, and had the territory claimed by the United States, which was at the date of the treaty in the possession of the British arms, been retained
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ed as cautionary pledges for the performance of the condition, the injured Loyalists would have been, in some measure, though inadequate to their losses, provided for ; because the States would have been, in that case, obliged by their public faith, as well as by their public interest, to restore the identical *property confiscated*, or the *value of it*. But as the sovereign authority of the States has been indefinitely and unconditionally ratified by an act of the British Government, no such obligation subsists : on the contrary, the laws of the usurpation which attainted the persons, and confiscated the estates of British subjects, and which before were *void in themselves*, are, by the same act that ratified the independence, become *valid and perfectly established*. The Loyalists, who are subject to those attainders and confiscations, can therefore of right, and in justice, look up *only* to Great Britain for a compensation. In this case they humbly conceive, that, by the essential obligations established by the social compact, the British Government has become the security for their indemnification, and is bound, by the principles of moral as well as political justice, to ensure it to them.

THERE may be, as is common in large bodies of men among the Loyalists, some pretenders,—some who found their claim upon their sufferings in the cause of their country, which they have

have never experienced; others, who claim a compensation for losses which they have not *sustained*; others who, having *friends* and *relatives* in the State, may, through their influence, obtain a restitution of their property. Such men ought, in justice, to be distinguished from those who have *really suffered*, who have *really* LOST, who have no relatives on whose influence they depend, and, more especially, from those *who have borne arms*, and, under the stipulations of the treaty, can have no hope of a restitution of their property.

THE preceding observations more particularly apply to the Loyalists of the first and second descriptions; and, even in respect to them, they demonstrate the policy and necessity of establishing a judicial enquiry into the merits and losses of the numerous claimants. For without it, neither can be ascertained, nor can a distinction be made between those who shall receive benefit from the recommendations of the Congress, and those who shall receive none.

BUT the persons of the third description, or those who have *bore arms* against the States, stand in a very different predicament. The recommendations of the Congress, in respect to them, is not for a fair and just restitution of their property. It is indeed stipulated, in the treaty, that they shall have the "liberty to go to the United States, and there to remain twelve months un-
 3 "molested.

"molested in their *endeavours* to obtain restitu-
 "tion;" and it is further agreed, that "the
 "Congress shall recommend to the States, that
 "their estates shall be restored to them, they
 "refunding the *bona fide* price which the pur-
 "chaser may have paid." But this is so far from
 affording to the Loyalists the least prospect of
 relief, that it is an insult to their *feelings*, and a
 mockery of their *misfortunes*. For it is these
 unfortunate men who have uniformly opposed
 and obstructed, for years, the great object of the
 usurpers; and who, in the course of the war, have
 put to death many of the friends and relatives of
 the Members of the States, as well as of others.
 The implacable resentment of these friends and
 relatives is naturally to be expected, more espe-
 cially as it is well known that many hundred
 Loyalists have already been *assassinated and mur-
 dered in cool blood*, merely on account of the
 assistance given to the British Generals. It is
 therefore impossible for the Loyalists, against
 whom such resentment subsists, even "to go to
 the United States," to use their "endeavours" to
 re-purchase their estates, unless they can prepare
 their minds to meet with fortitude *every insult,
 and even death itself*. Besides, where are men, who
 have forfeited all they possessed on earth, to find
 money to repurchase their estates? There is no
 provision for it in the treaty, nor is it possible for
 them to procure it elsewhere; and until they can
 procure the money, what success can they pos-
 sibly promise themselves in such an application?

BUT let us suppose, for argument sake, that the Loyalists have the money, where is the benefit of paying the value for their own property? Will they not act with more wisdom and prudence in keeping their money, and residing among friends, than in crossing the Atlantic, in order to throw themselves into the power of their unrelenting and triumphant enemies, subjecting themselves to insults and assassinations? Were it possible for men of generous minds to do an act so humiliating to all that is noble in human nature, a sense of their own danger, and the duty of self-preservation, would forbid it.

SHOULD it be here objected, that some estates have been sold *under the real value*, the answer is, that though this may be the case in one or two of the Colonies, it is otherwise in most of them. And even where it is the fact, in a variety of instances it will be found, that the immediate purchaser under the State has sold it to another for the *full value*; and in like manner, the second purchaser has sold it to a third. Besides, when the nature of the application to repurchase the property, with the answers which will be probably made by the possessor, as well as the State, are candidly weighed, this objection must vanish.

THE Loyalist, who has borne arms against the State, is first to apply to the possessor of his property

perty to sell it at the price he had given for it.
 What will be the natural answer of the possessor?
 The same which every Englishman, holding an
 estate under the British Government, would make
 on the like occasion. "I have bought your
 " estate at a public sale, and given more than
 " any other bidder. It was sold under the *seal*
 " of the State, and the *faith* of government;
 " and the whole people of this society are my
 " guarantees. I have *bona fide* paid the con-
 " sideration money into the public exchequer,
 " and therefore I will neither give it up to you,
 " nor the State." Should the Loyalists reply,
 " You have bought a great bargain;" will not
 the possessor rejoin, "I know it, and for that
 " very reason no man shall have it at the price
 " I gave for it, if I had not expended consider-
 " able sums of money in repairs; and much less
 " a man who is *my enemy*, and at this moment
 " stands adjudged a *traitor* to my country?"

THE Loyalist now prostrates himself before the
 State, for whose destruction his utmost efforts
 had been made *in arms*, and which has, in con-
 sequence of his opposition, adjudged him a trai-
 tor. He reminds the State of the recommend-
 ation of Congress, and prays that the possessor
 may be compelled to redeliver his property on
 the terms before mentioned. We will suppose, what
 is scarcely within the confines of possibility to
 suppose, that the State has laid aside all resent-

ment against the Loyalist, and shall take his claim into serious consideration, what relief can it give, consistent with its honour, and that character which it is bound, by the principles of its own safety, to preserve in the opinion of its people? Will any Government violate its own faith by arbitrarily depriving a subject of a right obtained under its own public authority, and that too in favour of an enemy?

HENCE we may conclude, that the answer of the State, should it condescend to give any, will be to the following purport :

I. " THAT the powers of Sovereignty being by the several constitutions vested in each State, the recommendations of Congress can carry with them no obligation ; and that whatever those recommendations may be, it is the supreme right of the States to examine their policy, equity, and practicability, and to adopt or reject them at their pleasure."

II. " THAT the claim of the Loyalist is both unjust and impracticable : unjust, because their own subjects have suffered more by the depredations of the British armies, than the whole amount of the confiscated property : that they are bound, by the essential laws and first principles of civil society, to make compensation to their own subjects for the losses sustained by those depredations, on
account

account of their allegiance : that for this purpose they have passed laws to ascertain the value of the damages done by the British forces. That the appropriation of the estates of those who had opposed, to the compensation of those who had defended the State, is naturally and forcibly suggested by the principles of sound policy, as well as national justice. That if it were possible that there could be any reason, in making restitution to their enemies, the obligations of rewarding and indemnifying their own subjects, for losses sustained on account of their fidelity, must outweigh that reason. But as it is contrary to equity and good policy for one sovereign power to compensate the subjects of another without an equal consideration, there ought to be a reciprocity in the restitution between Great Britain and the States : And therefore, should they agree to make it to the subjects of Great Britain, it must, in reason and justice, be upon the express condition that Great Britain shall indemnify the subjects of the States ; and consequently, when Great Britain shall accede to this principle of justice, then, and not till then, can they comply with the recommendations of Congress in favour of the Loyalists."

III. " THAT were they disposed to comply with the recommendation, it is in its own nature impracticable. Every State is bound, by the essential compact of society, to preserve inviolate the public faith with its own subjects ; and more es-

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pecially

pecially when, in time of danger, they have zealously defended it. That this faith cannot be lawfully broken, but in a case of extreme necessity. That no such necessity exists, since they are now independent sovereignties, and neither their power nor safety depend on a compliance with the recommendations: and should they, unsupported either by reason or policy, break their public faith with their own subjects, their honour, and the confidence of their people in their justice and protection, must be forfeited and lost for ever; and more especially, when this injustice to them is done in favour of men who have been their determined and irreclaimable enemies."

FROM these considerations it is evident, that the Loyalists of the first and second description, have little, if any, chance of relief from the stipulated recommendations: and in regard to the third, there is not even the semblance of provision made for them; for the recommendation respecting them, far from being in any degree beneficial, is an insult to their feelings, and a mockery of national justice; and they cannot, in all the variety of arguments, find one which gives them a reasonable hope or possibility of relief, *but in the justice of the British Parliament.* In this, as they have great reason, they humbly trust; and that it will not be delayed on account of any uncertainty in the events which relate to persons of the first and second descriptions. For
they

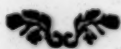
they beg leave to suggest, that it is impossible for a due enquiry to be made into the merits and losses of the third description, before the ultimate resolutions of the American States must be perfectly known in respect to the first and second.

THE Loyalists, desirous only that national justice may be strictly administered on this occasion, and that no imposition may take place on their fellow-subjects in Great Britain, humbly trust, that a commission, vested with the complete powers of *judicial enquiry*, be established under the authority of Parliament, to proceed immediately on an examination of the merits and claims of the third description of Loyalists, with powers to take into their consideration, all such descriptions of men who have been called on by their sovereign, under the authority of Parliament, to defend its supreme rights; and who have, in consequence of their obedience, suffered an attainder of their persons, and a confiscation of their estates.

IN a case so complex, it seems almost needless to intimate the necessity of such an enquiry. It is necessary to ascertain *immediately* the merits and losses of the third description of Loyalists, who have no chance of relief from the stipulations of the treaty, although they have the strongest claim on the society. It is necessary to decide
upon

upon the merits and losses of others, whose estates have been confiscated and sold on account of their loyalty. It is necessary to discriminate between the Pretender (if any such there be) and the real Loyalist. Indeed it is impossible to conceive how justice can be done either to the nation in general, or the Loyalists in particular, without such enquiry.

In cases similar, the practice of Parliament has been different. Where one or a few persons only have suffered, the proofs have been received, and referred to the Committee of Supplies : but where numbers have been concerned, and the case has been perplexed with claimants of different descriptions and degrees of merit, the rule has been to establish, by act of Parliament, a commission, vested with full powers of *legal and judicial enquiry*, into the loyalty, sufferings, and losses of the several claimants. This was done in the year 1710, in the cases of Nevis and St. Christopher's, whose inhabitants had suffered by the depredations of the French. In the year 1718, in the case of the Loyalists, whose property had been destroyed during the preceding rebellion in Scotland and Lancashire by the rebels and the royal army ; and in other cases, which it is needless to mention, when the nature of the present case so manifestly points out the necessity of such enquiry.



A P P E N D I X.

TO evince that it is not upon slight grounds we have declared, That we can have no reliance on any Treaties or Engagements made by the American Congress or their Agents, and more particularly on those Stipulations in the Provisional Treaty which relate to the Loyalists, even unfavourable as they are, we think it necessary to add the following

STATE OF FACTS.

1. SOON after the commencement of the rebellion (and before the Petition in trusted to Governor Penn, requesting his Majesty to "direct some "mode" for promoting "a happy and permanent "reconciliation" could possibly reach England), forces were sent by Congress into Canada to subdue that province. A body of them, amounting to about six hundred, were taken prisoners at a place called *The Cedars*. The party who took them, being chiefly Indians, would have put them all to instant death, had not the British

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Officer,

Officer, who commanded in that quarter, from motives of humanity, kindly interfered, and ransomed them at a considerable expence. A cartel was afterwards solemnly agreed upon for the exchange of these men for the garrison of St. John's, which had been before taken by the rebels, and even hostages were left in Canada for the due performance of this agreement; in consequence of which, the rebel prisoners were immediately released. But Congress, so far from complying with the engagement on their part, not only refused to release the garrison of St. John's, but ordered the officers and men taken at the Cedars to join their respective corps, and to act offensively against the British; notwithstanding the cartel, and their being at the time under paroles to the contrary. The sentiments which Sir Guy Carleton (who then commanded in Canada) entertained of this perfidious conduct, will appear from the public orders he afterwards issued; in which, after prohibiting the receiving any letters or messages from such (to use his own words) "rebels, traitors in arms against their King, rioters, plunderers, robbers, assassins and murderers," he adds, "At the same time, the Commander in Chief expects, that neither the assassination of Brigadier General Gordon, nor the late notorious *breach of faith*, in resolving not to return the troops and Canadians taken at St. John's, to exchange for those rebels who

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"fell

“ fell into the hands of Savages at the Cedars,
 “ purchased from them at a great price, and
 “ restored to their country on those express con-
 “ ditions, be imputed to the Provinces at large,
 “ but to a few designing men, who first de-
 “ ceived them, step by step, misled the multi-
 “ tude to the brink of ruin ; afterwards usurped
 “ authority, and then established a despotic ty-
 “ ranny not to be borne ; and now wantonly and
 “ foolishly endeavour to provoke the spilling the
 “ blood of their unhappy countrymen of this
 “ continent, in hopes of covering their own guilt,
 “ in confirming their tyranny by the general de-
 “ struction of their country. Let their crimes
 “ pursue these faithless, bloody-minded men,
 “ who assert that black is white, and white black.
 “ It belongs to Britons, to distinguish themselves
 “ not less by their humanity than their valour :
 “ it belongs to the King’s troops to save the
 “ blood of his deluded subjects ; whose greatest
 “ fault, perhaps, is, having been deceived by
 “ such men, to their own destruction : it belongs
 “ to the Crown, it is the duty of all the faithful
 “ servants of the Crown, to rescue from oppres-
 “ sion, and restore to liberty, the once happy,
 “ free, and loyal people of this continent.”

2. In October 1777, Lieutenant General Bur-
 goyne surrendered the army, under his com-
 mand at Saratoga, upon terms solemnly stipu-
 lated, in a Convention between him and General

Gates, who commanded the rebel forces there under the orders of Congress. This Convention was soon after broken by Congress, on such pretences, as aggravate their perfidy, and evince that they are capable of adopting any measure they think expedient, however flagrantly unjust. General Burgoyne, in his printed "*State of the Expedition from Canada,*" has the following observation on this infamous transaction, viz. "The Convention expressly preserved the army for the service of the State. According to that Convention, a truce was made during the war, between that army and the enemy in America; and it might now have been acting against the House of Bourbon in any other part of the world. The army was lost by the NON-COMPLIANCE *with the TREATY on the part of the CONGRESS*; and that VIOLATION OF FAITH, *no man will ever be found to JUSTIFY.*"

To this observation of General Burgoyne's, may, with propriety, be added an Extract from the Remarks on the Manifesto of Congress, published at New York in the year 1778, by order of his Majesty's Commissioners, then in America, for restoring peace, &c. These Remarks, after noticing, among other things, that the Congress had "deliberately committed an equal *breach of allegiance* that is due to the *King*, and of good *faith* that is due to their *fellow-subjects*," proceed

ceed as follows : “ It is not true, that persons
 “ serving under the King of Great Britain [*as al-*
 “ *ledged by Congress*] have employed deceit or fer-
 “ vility ; that they have made a mock of huma-
 “ nity or of religion, in their endeavours to re-
 “ store the peace of the British empire ; or that
 “ they have made a mock of reason, by offering
 “ a participation of the liberties of Britain.

“ SUCH mockery of humanity, religion, and
 “ reason, is justly to be imputed to those who,
 “ without being themselves exposed, urge their
 “ country into desperate councils ; to those who
 “ have broke their faith in the most solemn Con-
 “ ventions entered into to save the effusion of
 “ blood, as in those of *The Cedars* and of *Saratoga* ;
 “ and who have set examples, tending to destroy
 “ the confidence which induces men to spare the
 “ vanquished, or to release the captive.

“ THE mockery of religion is justly imputed to
 “ those, who, having *concealed* from their constitu-
 “ ents the *conciliatory offers* that were made to
 “ them, took GOD to witness, that they had no
 “ object beyond the redress of their grievances ;
 “ and now again *appeal to God for the truth of false*
 “ *assertions*, upon which they ground their refusal
 “ of peace to their country.”

3. IN October 1781, Lord Cornwallis surrendered his army by capitulation, at York Town, to the French and Rebels. The first article of that capitulation is in these words: " The *garrisons* of York and Gloucester, including the officers and seamen of his Britannic Majesty's ships, as well as other mariners, to surrender themselves *prisoners of war* to the combined forces of America and France. The land troops to remain prisoners to the United States; — the navy to the naval army of his Most Christian Majesty." In this article no discrimination was made between the British and Provincial troops which formed the garrisons; and it was therefore justly alledged by Lord Cornwallis, that all those American Loyalists, who were in any *military employ* in his army, were as effectually secured by it as his regular forces. It appears, however, from the depositions of some Provincial officers, who were American Loyalists, that the Rebels would not permit them to avail themselves of that article, and that what chiefly occasioned the safety of those Loyalists, both in the civil and military line, was the want of a law in Virginia, similar to what had been passed in some other provinces, for punishing Loyalists as traitors, when circumstanced as those taken at York Town and Gloucester. The following is an extract from one of the Depositions above alluded to, viz.

" *New*

“ *New York, ff.*

“ BASIL JACKSON, Lieutenant in Colonel Be-
 “ verly Robinson’s corps of pioneers, being duly
 “ sworn on the Holy Evangelists of Almighty
 “ God, depofeth and faith, That he is a native of
 “ Maryland, from whence he was compelled, for
 “ his loyalty, to escape to this city in the spring
 “ 1780: That he went from hence in June fol-
 “ lowing to Charlestown; from whence he went
 “ to Camden, and joined the Royal army under
 “ Lord Cornwallis: That on the arrival of his
 “ Lordship at Westover, in Virginia, the de-
 “ ponent was appointed a lieutenant in the corps
 “ of pioneers: That the deponent being in a
 “ very bad state of health at the time the siege of
 “ York Town in Virginia commenced, he ob-
 “ tained from Lord Cornwallis a pass to come to
 “ New York; but being disappointed in his pas-
 “ sage, he remained at Gloucester until the 19th
 “ of October last (when the place was surrender-
 “ ed): That he kept himself close in a tent un-
 “ til the next day, when about ten o’clock he
 “ was taken up by a Rebel officer, and ordered
 “ instantly into a redoubt, where he was confined
 “ with a number of Negroes; and in about half
 “ an hour after, he had the mortification to see
 “ Mr. Richard Burnley (a gentleman of large
 “ fortune in Virginia, who had lately joined the
 “ British army), and who was also in extreme ill
 “ health,

“ health, brought into the same place, where they
 “ remained two days without any morsel to eat,
 “ except such scraps of hoe cake as they begged
 “ from some small boys that belonged to the
 “ guard. The deponent further says, That when
 “ the prisoners were marched off for Richmond,
 “ he the deponent, and the said Richard Burnley,
 “ finding themselves utterly unable to proceed,
 “ they both sat down before they had got five
 “ hundred yards from the redoubt, determined
 “ to die on the spot, when some Rebel officers
 “ riding up, placed each of them on a horse be-
 “ hind a Negro boy, and in that condition gal-
 “ loped off with them five miles, which fatigued
 “ them excessively, so much that the said Richard
 “ Burnley fainted away upon being carried into
 “ a hut, where he was then left; but shortly
 “ after, by some means, obtained leave to go to
 “ his own house, where in about eight days there-
 “ after he died. The deponent finds himself un-
 “ able to describe his sufferings on the remainder
 “ of the march, from the insults of guards, with-
 “ out the means to cook any victuals, and where a
 “ pistereen was sometimes given to obtain a quart
 “ of water: That he was confined in the jail at
 “ Richmond, with seventeen others, in a close
 “ crowded room, about ten feet square, and
 “ loaded with irons, till the jailer thought the de-
 “ ponent’s leg in danger of a mortification. In
 “ this situation, the deponent, and eight other
 “ prisoners,

“ prisoners, on information being given them
 “ that Virginia was *singularly circumstanced*, not
 “ having then any law in force under which they
 “ could be capitally convicted, they employed coun-
 “ cil for their defence, and the deponent was
 “ then brought into court by *Habeas Corpus*; and
 “ no material witness appearing against him, he
 “ embraced the moment of acquittal to escape
 “ from Richmond; but had the misfortune to be
 “ again taken up about twenty miles distant, and
 “ brought back to jail: That the deponent was
 “ afterwards, at two different times, brought in-
 “ to court [for trial], where his council faith-
 “ fully defended him: That the deponent was
 “ also examined before the Governor and Council;
 “ and having obtained private information of
 “ their intention to send him into North Caro-
 “ lina, where he was better known, and where
 “ he the deponent verily believes he would have
 “ been put to death without a trial, he conceived
 “ his life depended on his making his escape from
 “ them, which, with great difficulty, danger, and
 “ expence, he effected. And further the deponent
 “ saith not.

(Signed) “ BASIL JACKSON,
 “ Lieut. of Pioneers.”

Sworn the 18th Day of
 March, 1782,

before me

(Signed) D. MATTHEWS, Mayor.

D

WHEN

WHEN Lieutenant Jackson escaped from Virginia, he left in the gaol there, among other Loyalists, a Virginia gentleman of the name of Ward, from the Eastern Shore, who had been taken prisoner, either with, or in attempting to join, the King's forces. He was closely confined in irons; and such (as Mr. Jackson declares) was the rage of some of the principal Rebels there against this gentleman, that they publicly declared he should be put to death, without form of law, in case he could not be legally convicted. Besides the deficiency of the law, as mentioned in the above deposition, there appears, by the following article taken from the Virginia Gazette, to have been other impediments there to the executing of Loyalists in certain circumstances, which are now got over, viz.

“ Richmond, Virginia, Nov. 9, 1782.

“ ON Saturday last was determined, by the
 “ Court of Appeals, the important question re-
 “ lative to the exclusive power of the House of
 “ Delegates, under the Constitution and Treason
 “ Law, to pardon traitors; when we are told, a
 “ great majority of the Court decided against this
 “ exclusive power. The consequence will be,
 “ that the unfortunate criminals, who have for a
 “ *long time* been suspended between hope and fear,
 “ will now probably be *executed* agreeably to their
 “ condemnation.”

PROBABLY

PROBABLY Mr. Ward, if he has survived his severe confinement, may be among those who are thus destined to suffer. But it is worthy of remark, and ought not to be forgot, as it manifests the real disposition of the people of that country, that it is publicly avowed, that those “*unfortunate* CRIMINALS (as they call the *Loyalists*) “*will probably be executed* agreeably to their condemnation,” notwithstanding the independence of America, and the pacific disposition of Great Britain, had been formally announced to them upwards of three months before.

WHEN the King's troops, who surrendered at York Town, were sent from thence into Maryland, there was among them a Doctor Cheney, a young gentleman, refugee from that province, who had been long a mate in the King's hospital belonging to the British army, and thought himself perfectly safe by the first article of Lord Cornwallis's capitulation : but as soon as he was discovered, he was seized, and closely confined at Annapolis, in order to be tried as a traitor, though, when resident among them, he had never taken the oaths to them, nor in any wise acknowledged himself a subject of their government. In this situation he was when the last accounts were received from him.

BESIDES these, and other breaches of that capitulation, with regard to *American Loyalists*, the Congress and General Washington were guilty of a most outrageous and unjustifiable violation of it, in the case of Captain Apgill, a *British officer*. This gentleman was certainly entitled to all the privileges stipulated in the capitulation, and could not forfeit his right to them but by some misconduct of his own; and yet, without any pretensions of that kind, he was wantonly and cruelly confined, and kept for a long time in a state worse than death itself; from which he would probably not have been saved, had not a French minister (the honour of whose nation was concerned, as being a party in the capitulation) humanely interfered in his behalf.

AFTER such notorious instances of the violation of public faith by the Congress, at a time too when it was so much their interest to establish a character for integrity, and there being scarcely an instance of their keeping any engagement of consequence, even to their own people, further than suited a present conveniency (many complaints of which can be produced from Rebel Papers), it cannot be thought extraordinary, if the Loyalists should place no confidence in Congressional assurances.

BUT,

BUT, perhaps, it may be urged, that this dishonourable conduct in them might not be owing so much to a want of principle, as to the warmth and resentment excited by the war ; and that upon the prospect of peace, their passions will subside, and they will manifest a disposition quite the reverse. This, however, the Loyalists cannot flatter themselves will be the case, for the following reasons :

1. ON Sir Guy Carleton's taking upon him the command in America, he wrote to Congress and General Washington, acquainting them with the pacific disposition of the Parliament and people of England towards the Thirteen Provinces, communicating the resolutions of the House of Commons of the 17th of February, against the carrying on any offensive operations on the continent of America ; and intimating, at the same time, that further pacific measures were likely to follow. To manifest his own desire to promote peace and reconciliation, he immediately released from confinement Sir James Jay, and Colonel Livingston, a son to Governor Livingston of New Jersey ; though the detention of the Colonel would have secured the safety and good treatment of Captain Apgill, and though he was a most important acquisition at that time to the Rebels, having acted as Secretary to Mr. John Jay at Madrid, and been lately taken on his return from thence,

thence and Paris to America, charged with dispatches which he had thrown overboard; the contents of which, however, could not be unknown to him, and of course was in his power to communicate. Sir Guy wrote a polite letter by him to his father and to General Washington, and requested a passport for his secretary Mr. Morgan, to go to Congress with some dispatches. But notwithstanding all this complaisance and conciliatory conduct on the part of the British General, Washington refused the passport (for which he afterwards received the approbation of Congress), and Livingston, at the next meeting of his Assembly, recommended and obtained the following Act against the Loyalists, viz.

“ A Supplemental Act to the Act intituled, An
 “ Act to punish Traitors and disaffected Persons.”

“ WHEREAS divers persons, subjects of this
 “ State, have, in a traitorous manner, joined, or
 “ taken refuge with the army of the King of
 “ Great Britain, contrary to the duties of their
 “ allegiance as good subjects: And, inasmuch as
 “ they have neglected to avail themselves of the
 “ several offers of mercy and tenderness hitherto
 “ extended towards them, but continue, by
 “ council or otherwise, to aid the said King in
 “ his attempts to reduce this and the United
 “ States

“ States of America to abject submission, thereby
 “ forfeiting all claim in future to the inestimable
 “ rights of freedom : Therefore

“ BE it enacted, by the Council and General
 “ Assembly of this State, and it is hereby enact-
 “ ed by the authority of the same, That each
 “ and every subject of this State, who has, since
 “ the fourth day of October 1776, aided and
 “ assisted the enemies thereof, or of the United
 “ States, by joining their armies within this State,
 “ or elsewhere; or who hath voluntarily gone to,
 “ taken refuge, or continued with, or endeavour-
 “ ed to continue with the enemy aforesaid,
 “ and aid them by council or otherwise; who
 “ shall, after the passing of this act, *return to, or*
 “ *be found, within this State*, shall be, and is
 “ hereby declared to be, guilty of *high treason*
 “ against this State; and being thereof legally
 “ convicted, shall suffer DEATH, without benefit
 “ of clergy (saving the corruption of blood).”

Nothing can more strongly mark the peculiar
 malevolence which the Rebels bear to the Loy-
 alists, and their aversion to reconciliation, than
 this act; it being passed but a few weeks after
 Sir Guy Carleton and Admiral Digby, as the
 King's Commissioners, had formally announced
 the independency of America in a letter to Ge-
 neral Washington, and must therefore have been
 intended

intended to deter the Loyalists from entering the State, on the expected termination of the war. But lest the Act alone should not carry with it sufficient terrors for the purpose, they determined to make examples of the first Loyalists who should fall into their power; and have accordingly lately executed several of them, as will appear from the following extract of a letter from a gentleman of character in New York, viz.

“ New York, Dec. 21, 1782.

“ THE same discountenance to Loyalty, and the
 “ same encouragement to rebellion, still prevails
 “ here; and the same vindictive, murdering dis-
 “ position still continues among the rebels. Eze-
 “ kiel Tilton, John Okefon, and Peter Eaton,
 “ were executed last week in the county of Mon-
 “ mouth, New Jersey, notwithstanding the for-
 “ mer was taken out of a fishing boat, and had
 “ been particularly demanded by Sir Guy Carle-
 “ ron as a British subject. Their friends made
 “ several applications, at head quarters, for per-
 “ mission to go out into the country, and take
 “ Rebels to hold as hostages for their security,
 “ but were refused. There is a number more of
 “ these poor people in Freehold Gaol, which I
 “ expect will share the same fate.”

SINCE the above was written, three more Loy-
 alists have been executed in Morris County, New

Jersey, and one in the County of Albany, in the State of New York.

It has been, indeed, the singular fate of the Loyalists, that they have been the only persons who have suffered as rebels and traitors during the rebellion. The British Government has never attempted to punish any one among the many thousand rebels who have been in their power, although many hundreds of Loyal Subjects have been executed, for no other crime than adhering to their allegiance. This forbearance and lenity, and the many humiliating concessions made to promote reconciliation, had no other effect (as might be naturally expected) than to excite their contempt, and to induce them to attribute the conduct of Government to timidity, or conscious imbecility.

WHEN Sir Guy Carleton arrived at New York, he made some efforts to put a stop to these cruel and iniquitous proceedings, but without success; as appears not only by the subsequent executions in the States of New Jersey and New York, but by the Resolutions of Congress on the 12th of August last; a short time after they had received the Commissioners letter, mentioning the allowance of their independence, viz.

E

“ By

“ By the United States in Congress assembled,
“ August 12, 1782.

“ RESOLVED, That Congress approve the con-
“ duct of General Washington, in refusing to
“ enter into *any discussion* with General Carle-
“ ton, on the subject of the *treason laws* passed
“ by the several States.

“ RESOLVED, That the States of America,
“ which compose the Union, being sovereign
“ and independent, the laws respectively passed
“ by them, for their internal government, and
“ the punishment of their offending citizens, can-
“ not be submitted to the discussion of any fo-
“ reign power, much less of an enemy.”

2. IN the beforementioned letter from the King's Commissioners, they acquaint General Washington, that when the King commanded his Ministers to direct Mr. Grenville to propose the Independency of the Thirteen Provinces in the first instance, instead of making it a condition of a general treaty, it was not, however, “ without “ the highest confidence, that the Loyalists should “ be *restored* to their possessions, or a *full com- pensation* made them for whatever confiscations “ may have taken place.” So reasonable a proposition, it was no doubt expected, would have been received with eagerness; especially as the
ungranted

ungranted territory, quit-rents, &c. belonging to the Crown, within the fixed limits of the Thirteen Provinces, without encroaching on the boundary of Canada, would sell for greatly more, when peace was restored, than would compensate all the losses the Loyalists and rebels had sustained. At present, we know only the resolutions of two Assemblies on this point; but as one of them is that of Pennsylvania, where the Congress sits, and which generally gives the tone to all the rest; and the other of Virginia, one of the principal States in the confederacy; we have little doubt of the same sentiments having been adopted by all the others. These resolutions are as follow, viz.

“ In General Assembly, Pennsylvania, Saturday,
“ Aug. 24, 1782, A. M.

“ RESOLVED unanimously, That notwithstanding
“ ing we regard a peace, on honourable terms,
“ as the most desirable of human events; yet we
“ prefer war, with all its calamities, to any con-
“ nection with Great Britain, which shall imply a
“ reunion founded on any dependence or subor-
“ dination whatsoever. And while we repeat our
“ renunciation of the Government of Great Bri-
“ tain, we also most explicitly disclaim that ap-
“ pendage of her Government, which, by an ac-
“ cumulated weight of property and power, sub-
“ jected the good people of this State to the

“ undue influence of the proprietary family ; and
 “ we regard the *restoration of that property and*
 “ *power, as also the property justly forfeited by the*
 “ *treasons and delinquency of sundry subjects of this*
 “ *State, as utterly incompatible with the future peace,*
 “ *interests, and safety of the same ;* being fully per-
 “ suaded, that every degree of power and influ-
 “ ence to be derived therefrom, will be employed
 “ to advance the interests of Great Britain, *to*
 “ *revive ancient, and implant new, prejudices against*
 “ *our ally, and to depreciate and weaken the inde-*
 “ *pendence gained at such a vast expence of blood and*
 “ *treasure.*

“ Extract from the Minutes,

“ PETER Z. LLOYD,

“ Clerk of the General Assembly.”

“ In the House of Delegates, Virginia, Tuesday,
 “ December 17, 1782.

“ WHEREAS resolutions in States, which end
 “ in a dissolution of their former government or
 “ constitution, bear no similarity to contests be-
 “ tween independent nations, in which the object
 “ is the defence and support of their constitutions
 “ and governments ; inasmuch as in the former,
 “ the life, liberty and property of the individual
 “ are risqued ; in the latter, the powers and rights
 “ of the whole community, in their political capa-
 “ city, are hazarded.

“ RESOLVED

“ RESOLVED therefore unanimously, That when
 “ the former constitution or social compact of this
 “ country, and the civil laws which existed under
 “ it, were dissolved, a majority of the inhabitants
 “ had, through necessity, an unquestionable natural
 “ right to frame a new social compact, and
 “ to admit as parties thereto, those only who
 “ would be bound by the laws of the majority ;
 “ and consequently, as no individual can claim
 “ immunities, privileges, or property in any
 “ community but under the laws of that community ;
 “ so all those who were members of the
 “ former government, which, and its dependent
 “ laws, have been dissolved, abrogated, and made
 “ void, cannot have legal claim to any immunity,
 “ privilege, or property under our present constitution,
 “ or those laws which flow from it, if they
 “ were not parties to the present social compact
 “ originally, or have become parties by the subsequent
 “ laws thereof.

“ RESOLVED unanimously, That the laws of
 “ this State, confiscating property held under the
 “ laws of the former government (which have
 “ been dissolved and made void) by those who
 “ have never been admitted into the present social
 “ compact, being founded on legal principles, were
 “ strongly dictated by that principle of common
 “ justice which demands, that if virtuous citizens,
 “ in defence of their natural and constitutional
 “ rights, risk their life, liberty and
 “ pro-

“ property on their success, the vicious citizens
 “ who side with tyranny and oppression, or who
 “ cloak themselves under the mask of neutrality,
 “ should at least hazard their property, and not
 “ enjoy the benefits procured by the labours and
 “ dangers of those whose destruction they with-
 “ ed.

“ RESOLVED unanimously, That all demands
 “ or *requests* of the British Court, for the *resti-*
 “ *tution* of property *confiscated* by this State, be-
 “ ing neither supported by law, equity or policy,
 “ are *wholly inadmissible*; and that our Dele-
 “ gates in Congress be instructed to move Con-
 “ gress, that they may direct their Deputies,
 “ who shall represent these States in the General
 “ Congress for adjusting a peace or truce, neither
 “ to agree to any such restitution, or submit that
 “ the laws made by any Independent State of this
 “ Union, be subjected to the adjudication of any
 “ power or powers on earth.”

ALTHOUGH we have no authentic accounts of
 what has been determined on in the Assembly of
 New York on this occasion, yet we have no rea-
 son to expect they will be in any degree more
 favourable than those of Pennsylvania and Virginia.
 By late letters from gentlemen of character in the
 city of New York, it appears, that they had in-
 telligence of an Act passed by the Assembly of
 that State in September last, confiscating all the
 British

British goods and property that shall be found in New York after the evacuation of that city, and prohibiting all persons belonging to any of the learned professions, who have been practising within the King's lines during the war, from continuing in their business after the King's troops quit the country. And, in a rebel Paper, printed at Fish-kill, intitled *The New York Packet*, there is an account of a Meeting of a number of respectable freeholders, (as they stile themselves) and other inhabitants, of the precinct of Newburgh in that State, on the 15th of last October. At this meeting it was resolved, with all that malignancy which has uniformly distinguished the Rebel character, " That the prolongation of this unnatural war, " may be very justly attributed to those more than " *savage brutes* the tories [*Loyalists*]: and however " lenient *some* of our rulers are in permitting the " return, and granting pardons to many of those " *atrocious villains*, which we have been spectators " of, and for several years beheld with the utmost concern, notwithstanding an express law " of the State to the contrary, &c. We " think it a duty we owe to our country, ourselves, " and posterity, to use every means to *extirpate* " from this precinct all such who have joined the " enemy, and shall attempt to return hither in " future. And further, we are determined to " *despise* and *set aside* all such *protections*, as secures

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" such

“ such *miscreants* in a peaceable residence amongst
 “ us; because, if the law that has condemned
 “ and sold the estates of those *wretches* is just; it
 “ is clear to a demonstration, that the law which
 “ grants them protection is erroneous: There-
 “ fore resolved, That no person or persons, com-
 “ ing from within the enemy’s lines, under what
 “ *character or denomination whatsoever*, shall be
 “ suffered to take up his or their abode *peaceably*
 “ here, or become residents amongst us.”

It may possibly be urged, that though such
 has been the disposition manifested by the ruling
 powers of those States even since they knew of the
 allowance of their independency, and the earnest
 desire of this country for reconciliation, yet when
 the Congress shall, agreeably to the stipulations
 of their Commissioners at Paris, RECOMMEND to
 the several States a restitution of property, and a
 cessation of prosecutions, they will alter their con-
 duct to the Loyalists. This supposition is, in-
 deed, specious, but far from being well founded.
 The influence of Congress, it is well known by
 those who are conversant in the affairs of that
 country, has been sensibly on the decline for
 some years past. It was probably, however, never
 higher than in the year 1778, when they passed
 the following Resolve, viz.

“ In

“ In Congress, April 23, 1778.

“ RESOLVED, That it be *recommended* to the
 “ Legislatures of the several States to pass laws,
 “ or to the executive authority of each State, if
 “ invested with sufficient power, to issue pro-
 “ clamations offering pardon, with such excep-
 “ tions, and under such limitations and restric-
 “ tions as they shall think expedient, to such of
 “ their inhabitants or subjects as have levied war
 “ against any of these States, or adhered to, aided,
 “ or abetted the enemy, and shall so render them-
 “ selves to any civil or military officer of any of
 “ these States, and shall return to the State to
 “ which they may belong, before the 10th day
 “ of June next; and it is *recommended* to the
 “ good and faithful citizens of these States, to re-
 “ ceive such returning penitents with compassion
 “ and mercy, and to forgive, and bury in ob-
 “ livion, their past failings and transgressions.

“ (Extract from the minutes)”

“ CHARLES THOMPSON, Sec.”

THE manner in which Governor Livingston soon after communicated this resolution to the Assembly of New Jersey, will shew how little he regarded the authority from whence it was derived. His words are, “ Though I think it my
 “ duty to submit this resolution to your serious

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“ confi-

“ confideration, because it is *recommended* by Con-
 “ gress, I do not think it *my duty* to *recommend* it
 “ to *your approbation*, because it appears to me
 “ both *unequal* and *impolitic*. It may, consistently
 “ with the profoundest veneration for that august
 “ assembly, be presumed, that they are less ac-
 “ quainted with the particular circumstances and
 “ internal police of some of these States, than
 “ those who have had more favourable oppor-
 “ tunities for that purpose.”

AND he afterwards adds, “ Will it not be bet-
 “ ter policy to insist upon a *perpetual separation*
 “ from those whose intercourse with us must con-
 “ stantly revive the most painful ideas, and
 “ whose very presence among the genuine Sons of
 “ Freedom would seem as unnatural as that of
 “ SATAN among the SONS of GOD! The
 “ disgrace they have brought upon their native
 “ country can never be expunged, but by EX-
 “ PUNGING them.”

THE whole of this violent harangue is filled
 with numerous falsehoods and abuse of the
 Loyalists, the King's forces, and the British na-
 tion, for the purpose of justifying his own malign-
 ant sentiments. It had, however, the intended
 effect on the Assembly, who refused a compliance
 with the *recommendation* of Congress, though con-
 fessedly a very politic one at that time, and their
 example

example was followed by all the other States in the confederacy.

IN the latter end of the year 1781, the Congress, finding they could no longer impose on the people with paper money, and that even their army refused to receive it on any terms, came to a resolution to *recommend* to their several States, the raising the sum of eight millions of dollars in specie for the supplies for the year 1782, and settled the quota which each State should contribute. Though this sum was absolutely necessary to defray the current expences of the year, and every artifice and means in their power were used to enforce the collection of it, yet only *three hundred and nine thousand seven hundred and four dollars* could be obtained; not one of the States raising near their quota, and six of them (among which is Virginia) declining all compliance with the *recommendation*.

THE Congress likewise, in the same year, made another requisition of the States, in the words following, viz.

“ In Congress, February 3, 1781.

“ RESOLVED, That it be *recommended* to the
 “ several States, as *indispensably necessary*, that they
 “ vest a power in Congress to levy, for the use of
 “ the United States, a duty (of five *per cent. ad*
 F 2 *valorem*,

“ *valorem*, at the time and place of importation;
 “ upon all goods, wares, and merchandise, of
 “ foreign growth and manufactures, which may
 “ be imported into any of the said States, from
 “ any foreign port, island, or plantation, after
 “ the first day of May 1781, except arms, am-
 “ munition, cloathing, and other articles, im-
 “ ported on account of the United States, or
 “ any of them, and except wool, cards, and
 “ cotton cards, and wire for making them, and
 “ also except salt, during the war; also a like
 “ duty of five *per cent.* on all prizes and prize
 “ goods, condemned in the Court of Admiralty
 “ of any of those States, as lawful prize.

“ THAT the monies arising from those duties
 “ be appropriated to the discharge of the prin-
 “ cipal and interest of the debts already con-
 “ tracted, or which may be contracted on the
 “ faith of the United States, for supporting the
 “ present war. That the said duties be con-
 “ tinued, until the said debts shall be fully and
 “ finally discharged.”

THIS recommendation, though complied with
 by some of the States, was *unanimously* rejected by
 the Assembly of Rhode Island. The consequence
 of which, it was expected, when the last advices
 left America, would be, that those States who
 had complied, would soon repeal the laws they had
 passed

passed for the purpose. Virginia had already set the example, as appears by the following article in a Philadelphia paper of the 28th of last December, viz.

“ INTELLIGENCE is received from Virginia, that
 “ the legislature of that State have *repealed* their
 “ act heretofore passed, adopting the *recommendation of Congress* of February 3, 1781, for a continental impost of *five per cent*. In consequence
 “ of which, the deputation appointed by Congress to go to Rhode Island, to urge that
 “ State into a compliance with that measure,
 “ and which had set out on their journey, has
 “ *returned*.”

FROM ~~than~~ ^{an} unadorned narrative of FACTS, we every man of candour will allow, that the *perfidy* of Congress, the *inefficacy* of their *recommendations*, and the *rancorous blood-thirsty spirit* of the Rebel rulers in general, have been fully demonstrated; and, consequently, that the suffering Loyalists cannot flatter themselves with any hopes of relief, but what are founded on the justice and liberality of the British Government.

THE END.

